

HOUSE BILL 2112
By

AN ACT to amend Tennessee Code Annotated, Title 2, Chapter 12, relative to the duties of county election commissions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 2, Chapter 12, is amended by adding the following Sections 2 through 5 as a new part:

SECTION 2. It is the intent of the general assembly to authorize each county election commission to fully and properly certify each candidate who submits a nominating petition, and that each commission should therefore have the requisite power to conduct an inquiry and hold a hearing in order to verify the statements in each candidate's nominating petition, in order to ensure that the petition comports with any applicable constitutional and legal requirements with respect to age and residency.

SECTION 3. The county election commission shall review each nominating petition filed by a candidate for a state or local election in order to determine that each candidate meets any age and residency requirements for the office sought.

SECTION 4. (a) If the information provided concerning the candidate's age or residency requirements is brought into question by a registered voter of the district in which the candidate is seeking to be nominated, the commission shall so notify the questioned candidate and shall promptly conduct an inquiry to determine the truthfulness of the statements made on the nominating petition. The commission may review and investigate all submitted documentation

and any other information reasonably related to the candidate's age and residency requirements.

(b) In order for an informal hearing to be conducted, a registered voter of the district in which the candidate is seeking to be nominated shall file a complaint, clearly and briefly stating the basis for the voter's belief that the candidate does not satisfy any applicable age or residency requirement. The complaint must be in the form of a notarized affidavit, or a notarized oath must be attached to the complaint. Members of the county election commission and current candidates for nominating petitions may not file a complaint against any candidate. Before the commission conducts a review and investigation, an informal hearing may be scheduled by the registrar in order to determine the candidate's age and residency. The informal hearing must be scheduled at least sixty (60) days prior to the election for which the candidate is seeking elected office; otherwise, no informal hearing may be held.

SECTION 5. (a) There is a presumption of truthfulness in favor of the candidate's petition for nomination. The inquiry must be conducted in an expeditious manner, and a decision must be rendered with a minimum of delay. If the registrar is unable to resolve the matters in dispute forty-five (45) days before the election, the candidate will be presumed to satisfy any applicable age or residency requirement, and the registrar's inquiry shall cease at that time. Based on the evidence presented in any informal hearing, a petition may be rejected. The registrar may only find against the candidate for reasons of age or residency. After reasonable and timely investigation, if the registrar finds for accepting the candidate's petition, no other complaints will be accepted and no further hearings may be held. If the registrar finds against the candidate accepting the candidate's petition, the candidate may file for a formal hearing before the county election commission. During the pendency of the formal hearing, the candidate shall be presumed qualified to be certified. The registrar's findings of fact will be under oath and be open to and available to the public.

(b) The county election commission shall conduct a formal hearing on the candidate's petition for nomination according to the guidelines for a contested hearing under the Uniform

Administrative Procedures Act (UAPA) contained in Tennessee Code Annotated, Title 4, Chapter 5. The formal hearing must be scheduled at least forty-five (45) days prior to the deadline for which the candidate's name must be placed on the election ballot; otherwise, the formal hearing may not be held, and the candidate's petition for nomination shall be approved.

(c) The state election commission may promulgate rules and regulations as necessary in order to further implement the provisions of this part and in order to further the accuracy and expediency of these hearings.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.

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